

## § 64.2

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### § 64.2 Definitions.

(a) *Abandoned Railroad Rights-of-Way.* An abandoned railroad right-of-way is the real property used for or formerly used for the operation of railroad trains by a common carrier railroad, upon which the railroad company has, or will cease operations and sell, or otherwise dispose of the company's interest in the real property.

(b) *Project Applicant.* Federal, State, or local governmental agencies.

### § 64.3 Applicability and authority.

The policies and procedures contained herein are applicable to the making of grants to State and local governments and to the making of allocations to Federal agencies under the provisions of title VIII, section 809(b) (2) and (3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94–210) (90 Stat. 145). The Secretary of the Interior in consultation with the Secretary of Transportation is responsible for providing financial assistance in accordance with section 809(b) (2) and (3). The Secretary of the Interior's responsibility has been delegated to the Bureau of Outdoor Recreation.

### § 64.4 Scope.

(a) Funding assistance authorized by section 809(b)(2) shall be provided to State and local government entities to enable them to acquire and develop abandoned railroad rights-of-way for recreation and conservation purposes and to plan for such acquisition and development. As provided for by law, grants shall be made for not more than 90 percent of the cost of the particular project for which funds are sought.

(b) Allocations authorized by section 809(b)(3) shall be made to Federal agencies to enable them to acquire abandoned railroad rights-of-way. Such allocations shall be made for an amount up to the price paid to the owner of the real property proposed for acquisition plus expenses incidental to acquisition such as title work, surveys, appraisals and relocation.

### § 64.5 Eligible projects.

(a) Abandoned railroad projects will be for recreation and/or conservation

purposes including the acquisition of the rights-of-way involved and will be sponsored by a project applicant who has authority to carry out public recreation or conservation programs. Eligible project elements for State and local governmental entities may include:

(1) The acquisition of fee or less than fee interests including long term leases of not less than 25 years and easements which will secure for the project applicant the right to develop use the property for public recreation and/or conservation purposes.

(2) The development of facilities which are necessary for making rights-of-way usable for public recreation and conservation purposes.

(b) Allocations made to Federal agencies will be made for the acquisition of lands or interests in lands, including incidental acquisition expenses, located in existing areas where such acquisition is authorized by law and the land is usable for public recreation and conservation purposes.

(c) Abandoned railroad rights-of-way projects proposed by State and local governmental entities and Federal agencies shall be in accordance with the State comprehensive outdoor recreation plan for the State in which the project is located.

### § 64.6 Application procedures.

State and local units of government applying for grants under this program will comply with the regulations, policies, guidelines, and requirements of OMB Circular No. A–95 (Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects), Federal Management Circulars 74–4 (Cost Principles Applicable to Grants and Contracts with State and Local Governments) and OMB Circular No. A–102 (Uniform Administrative Requirements for Grants-in-Aid to State and local governments).

(a) *Preapplications.* A preapplication will be used to initially screen and select those projects for which a final application may be submitted for assistance. The preapplication will include:

(1) A Standard Form 424 (may be obtained from applicable Regional Offices of the Bureau of Outdoor Recreation).

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(2) A map showing the location of the property to be acquired and/or developed and its relation to surrounding land uses including other recreation/conservation resources.

(3) A program narrative statement.

(i) Where acquisition is involved the number of acres and real property interest to be acquired. Attach a copy of the abandonment notice.

(ii) The type of recreational/conservation use planned for the project site including the type of development to be included in the project (if a site plan is available it should be submitted).

(iii) A statement indicating separately the estimated acquisition and development costs.

(iv) A time schedule for completing the acquisition and development.

(v) A brief discussion of how the project embodies the selection criteria outlined in § 64.8.

(4) Indicate any known problems that will occur in obtaining clear title to the right-of-way.

(5) Because of the limited funds available applicants are encouraged to provide an alternative plan indicating a viable segment of the overall project which could possibly be funded at a lower amount in lieu of the complete project.

(b) *Applications.* For those State and local projects selected the applicant shall submit the standard application provided for in Attachment M of OMB Circular A-102. An application package developed for this program will be available from the Bureau of Outdoor Recreation Regional Offices. The following application requirements will apply (information submitted with the preapplication will not be required again):

(1) *A-95 Clearinghouse Review.* The applicant will obtain and include in the application, State and areawide clearinghouse comments in accordance with OMB Circular A-95.

(2) *National Environmental Policy Act of 1969 (Pub. L. 91-190).* The Bureau of Outdoor Recreation will review the environmental information developed by the Interstate Commerce Commission relative to the abandonment to determine if additional information is required to adequately assess the envi-

ronmental impact of the project and determine the need for an environmental impact statement. Where necessary the applicant will provide additional information from which the Bureau can assess the environmental impact. The format for such information will be provided by the Bureau.

(3) *National Historic Preservation Act of 1969 and Executive Order 11593.* The applicant shall provide the State's Historic Preservation Officer with a copy of the project proposal and allow him 30 days in which to comment on the effect of the proposed project. Such comments will indicate whether the project will have any effect on a site in, or eligible for nomination to the National Register of Historic Places. The comments of the SHPO will be included with the application.

(4) *Flood Disaster Protection Act of 1973 (Pub. L. 93-234).* Applicants will be required to purchase flood insurance for acquisition or development of insurable improvements located in a flood plain area identified by the Secretary of Housing and Urban Development as an area which has special flood hazards.

(5) *Corps of Engineers Permits Requirements.* For development projects requiring a Corps of Engineers permit under section 10 of the Rivers and Harbors Act of 1899 and/or section 404 of the Federal Water Pollution Control Act of 1972, applicants will include evidence in the application that action has been initiated to obtain such permit.

(6) *Section 7 of the Endangered Species Act of 1973.* The applicant, through the submission of environmental information, and in consultation with the Bureau of Outdoor Recreation Regional Office will indicate any known project conflict with section 7 of the Endangered Species Act of 1973.

(7) *Plans and Maps.* Each application will include copies of State, county, or city maps showing the geographic location of the project and its relation to surrounding land uses including other recreation/conservation resources. Where development is included in the project, a site plan of the proposed improvements will be provided along with a breakdown of the estimated development costs. For the acquisition, the application will include a schedule listing

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the parcels to be acquired, estimated linear mileage and acreage of each, the estimated value of each parcel and the estimated date of acquisition.

(8) In addition to the narrative required by part IV of the standard application, the following information will be provided:

(i) The type of recreation/conservation activity intended for the project site.

(ii) The time schedule for completing the project and plans for operation and maintenance; and

(iii) A brief discussion of how the project embodies the selection criteria outlined in § 64.8.

(c) *Content of the Proposal by Federal Agencies.* Each proposal should include the following minimum information (preapplication not required):

(1) Identification and description of the property proposed for acquisition.

(2) A statement indicating the recreational and/or conservation use planned for the acquired rights-of-way and the relationship of such use to land now administered by the Federal agency proposing acquisition.

(3) A map showing the location of the property in relation to land now administered by the Federal agency proposing acquisition.

(4) The real property interest proposed for acquisition.

(5) An environmental assessment of the acquisition and subsequent development, if proposed.

(6) A citation of the statutory or other authority under which the land would be acquired and a discussion of how the proposed acquisition is in accord with the authority for acquisition.

(7) The funds being requested for the project including a summary of the estimated cost of the land and costs incidental to acquisition.

(8) A discussion of how acquisition of the rights-of-way and subsequent development embodies the selection criteria outlined in § 64.8.

(d) *Preapplication.* (1) Projects sponsored by State, local, or Federal applicants shall be submitted to the appropriate Bureau of Outdoor Recreation Regional Office.

(2) Projects will be considered for funding on a quarterly basis until available funds have been obligated to

approved projects. The first project submission quarter will begin with the first of the fiscal year. Funds not utilized in one quarter will be available for the next. Once all funds have been obligated, projects will not be accepted until additional appropriations become available.

### § 64.7 Project selection and funding procedures.

(a) The Bureau of Outdoor Recreation Regional Office will review all preapplications and Federal proposals to insure application completeness and eligibility. A copy of eligible preapplications or Federal proposals and supporting information and data will be submitted to the Washington Office of BOR for final review and selection. An information copy of each project preapplication and proposal will be submitted to the State Liaison Officer designated to coordinate Land and Water Conservation Fund activities.

(b) The Washington Office of the Bureau of Outdoor Recreation will evaluate all projects submitted by the Regional Offices. Final selection of projects to be funded shall be by the Director of the Bureau of Outdoor Recreation.

(c) State and local projects selected for funding will be approved and funds obligated by the appropriate Regional Director. Funds will not be obligated until the Bureau has met with the applicant to discuss the terms, conditions, and procedures required by the grant.

(d) Federal agency sponsored projects will be funded by transfer of funds from the Bureau of Outdoor Recreation to the sponsoring agency up to the amount of the project cost as shown in the agency's approved application.

[42 FR 54806, Oct. 11, 1977. Redesignated at 45 FR 780, Jan. 3, 1980, and 46 FR 34329, July 1, 1981, as amended at 60 FR 55791, Nov. 3, 1995]

### § 64.8 Project selection criteria.

Those projects which best meet the following criteria will be selected to receive assistance:

(a) Projects which have cleared abandonment procedures and for which sufficient control and tenure of land can be assured, in order that the project